

<b>Interview Summary</b>	Application No.	Applicant(s)	
	09/918,132	PIAZZA, WILLIAM JOSEPH	
	Examiner	Art Unit	
	Qamrun Nahar	2191	

All participants (applicant, applicant's representative, PTO personnel):

- (1) Qamrun Nahar. (3) James E. Boice (Reg. No. 44,545).  
 (2) Wei Zhen. (4) \_\_\_\_\_.

Date of Interview: 19 September 2006.

Type: a) ☒ Telephonic b) ☐ Video Conference  
 c) ☐ Personal [copy given to: 1) ☐ applicant 2) ☐ applicant's representative]

Exhibit shown or demonstration conducted: d) ☐ Yes e) ☒ No.  
 If Yes, brief description: \_\_\_\_\_.

Claim(s) discussed: 1,35 and 44-54.

Identification of prior art discussed: Furtney (U.S. 5,579,509) and Kathail (U.S. 5,802,365).

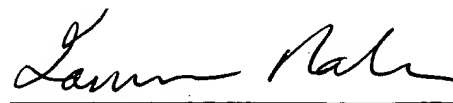
Agreement with respect to the claims f) ☒ was reached. g) ☐ was not reached. h) ☐ N/A.

Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: An agreement was reached where claims 1-11, 19-34 and 54 would be canceled and claims 44-52 would be amended to put the remaining claims in good condition for allowance.

(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims allowable, if available, must be attached. Also, where no copy of the amendments that would render the claims allowable is available, a summary thereof must be attached.)

THE FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN A NON-EXTENDABLE PERIOD OF THE LONGER OF ONE MONTH OR THIRTY DAYS FROM THIS INTERVIEW DATE, OR THE MAILING DATE OF THIS INTERVIEW SUMMARY FORM, WHICHEVER IS LATER, TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. See Summary of Record of Interview requirements on reverse side or on attached sheet.

Examiner Note: You must sign this form unless it is an Attachment to a signed Office action.

  
 Examiner's signature, if required

## Summary of Record of Interview Requirements

### Manual of Patent Examining Procedure (MPEP), Section 713.04, Substance of Interview Must be Made of Record

A complete written statement as to the substance of any face-to-face, video conference, or telephone interview with regard to an application must be made of record in the application whether or not an agreement with the examiner was reached at the interview.

### Title 37 Code of Federal Regulations (CFR) § 1.133 Interviews

#### Paragraph (b)

In every instance where reconsideration is requested in view of an interview with an examiner, a complete written statement of the reasons presented at the interview as warranting favorable action must be filed by the applicant. An interview does not remove the necessity for reply to Office action as specified in §§ 1.111, 1.135. (35 U.S.C. 132)

#### 37 CFR §1.2 Business to be transacted in writing.

All business with the Patent or Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

The action of the Patent and Trademark Office cannot be based exclusively on the written record in the Office if that record is itself incomplete through the failure to record the substance of interviews.

It is the responsibility of the applicant or the attorney or agent to make the substance of an interview of record in the application file, unless the examiner indicates he or she will do so. It is the examiner's responsibility to see that such a record is made and to correct material inaccuracies which bear directly on the question of patentability.

Examiners must complete an Interview Summary Form for each interview held where a matter of substance has been discussed during the interview by checking the appropriate boxes and filling in the blanks. Discussions regarding only procedural matters, directed solely to restriction requirements for which interview recordation is otherwise provided for in Section 812.01 of the Manual of Patent Examining Procedure, or pointing out typographical errors or unreadable script in Office actions or the like, are excluded from the interview recordation procedures below. Where the substance of an interview is completely recorded in an Examiners Amendment, no separate Interview Summary Record is required.

The Interview Summary Form shall be given an appropriate Paper No., placed in the right hand portion of the file, and listed on the "Contents" section of the file wrapper. In a personal interview, a duplicate of the Form is given to the applicant (or attorney or agent) at the conclusion of the interview. In the case of a telephone or video-conference interview, the copy is mailed to the applicant's correspondence address either with or prior to the next official communication. If additional correspondence from the examiner is not likely before an allowance or if other circumstances dictate, the Form should be mailed promptly after the interview rather than with the next official communication.

The Form provides for recordation of the following information:

- Application Number (Series Code and Serial Number)
- Name of applicant
- Name of examiner
- Date of interview
- Type of interview (telephonic, video-conference, or personal)
- Name of participant(s) (applicant, attorney or agent, examiner, other PTO personnel, etc.)
- An indication whether or not an exhibit was shown or a demonstration conducted
- An identification of the specific prior art discussed
- An indication whether an agreement was reached and if so, a description of the general nature of the agreement (may be by attachment of a copy of amendments or claims agreed as being allowable). Note: Agreement as to allowability is tentative and does not restrict further action by the examiner to the contrary.
- The signature of the examiner who conducted the interview (if Form is not an attachment to a signed Office action)

It is desirable that the examiner orally remind the applicant of his or her obligation to record the substance of the interview of each case. It should be noted, however, that the Interview Summary Form will not normally be considered a complete and proper recordation of the interview unless it includes, or is supplemented by the applicant or the examiner to include, all of the applicable items required below concerning the substance of the interview.

A complete and proper recordation of the substance of any interview should include at least the following applicable items:

- 1) A brief description of the nature of any exhibit shown or any demonstration conducted,
- 2) an identification of the claims discussed,
- 3) an identification of the specific prior art discussed,
- 4) an identification of the principal proposed amendments of a substantive nature discussed, unless these are already described on the Interview Summary Form completed by the Examiner,
- 5) a brief identification of the general thrust of the principal arguments presented to the examiner,  
(The identification of arguments need not be lengthy or elaborate. A verbatim or highly detailed description of the arguments is not required. The identification of the arguments is sufficient if the general nature or thrust of the principal arguments made to the examiner can be understood in the context of the application file. Of course, the applicant may desire to emphasize and fully describe those arguments which he or she feels were or might be persuasive to the examiner.)
- 6) a general indication of any other pertinent matters discussed, and
- 7) if appropriate, the general results or outcome of the interview unless already described in the Interview Summary Form completed by the examiner.

Examiners are expected to carefully review the applicant's record of the substance of an interview. If the record is not complete and accurate, the examiner will give the applicant an extendable one month time period to correct the record.

### Examiner to Check for Accuracy

If the claims are allowable for other reasons of record, the examiner should send a letter setting forth the examiner's version of the statement attributed to him or her. If the record is complete and accurate, the examiner should place the indication, "Interview Record OK" on the paper recording the substance of the interview along with the date and the examiner's initials.

### Applicant Initiated Interview Request Form

Application No.: 09/918,132 First Named Applicant: William Joseph Piazza  
Examiner: Qamrun Nahar Art Unit: 2191 Status of Application: Final

**Tentative Participants:**

(1) Jim Boice (2) Qamrun Nahar  
(3) Wei Y. Zhen (4) \_\_\_\_\_

Proposed Date of Interview: TBD Proposed Time: TBD (AM/PM)

**Type of Interview Requested:**

(1) ☒ Telephonic (2) ☐ Personal (3) ☐ Video Conference

Exhibit To Be Shown or Demonstrated: ☐ YES ☒ NO

If yes, provide brief description: \_\_\_\_\_

### Issues To Be Discussed

Issues (Rej., Obj., etc)	Claims/ Fig. #s	Prior Art	Discussed	Agreed	Not Agreed
(1) <u>1</u>	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(2) <u>35</u>	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(3) <u>53</u>	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(4) <u>54</u>	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
[ ] Continuation Sheet Attached					

**Brief Description of Arguments to be Presented:**

See attached proposed agenda.

An interview was conducted on the above-identified application on 9/19/06 @ 3pm

**NOTE:** This form should be completed by applicant and submitted to the examiner in advance of the interview (see MPEP § 713.01).

This application will not be delayed from issue because of applicant's failure to submit a written record of this interview. Therefore, applicant is advised to file a statement of the substance of this interview (37 CFR 1.133(b)) as soon as possible.

  
Applicant/Applicant's Representative Signature

James E. Boice

Typed/Printed Name of Applicant or Representative

44,545

Registration Number, if applicable

  
Examiner/SPE Signature

This collection of information is required by 37 CFR 1.133. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 21 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

**PROPOSED TELECONFERENCE AGENDA**

**FROM JIM BOICE (512.617.5533)**

**09/918,132**

**AFTER-FINAL**

Claim 1.

Can we discuss the feature of "in response to determining that said firmware family codes are different, considering said two firmware images to be incompatible unless a compatibility table entry indicates otherwise"? The cited art does not appear to teach an overriding "compatibility table entry" that indicates that two firmware images are compatible, despite being from different families.

*Furtney* teaches the use of compatibility tables for software modules. However, In col 4, lines 8-15, different versions of software are considered compatible if the new version is at a higher level. Specifically, *Furtney* states at col. 4:

In the preferred embodiment, it is assumed that a software module at any arbitrary level will include the capabilities and functions of each lower level of that same module that are required for compatibility with other modules. Thus, for purposes of compatibility, a higher level of a module being verified will always satisfy minimum requirements for compatibility with the verifying module if any lower level of the module being verified satisfies such compatibility requirements. (Emphasis added.)

Thus, there is a presumption in *Furtney* that two differently named modules ARE compatible (assuming that the new version has a higher level), even though they have different names. There is no presumption ("in response to...considering") that the two versions are incompatible.

Claim 54 (dependent on Claim 1)

Can we discuss the feature of "wherein said method for identifying compatibility between two firmware images is performed in response to an electronic device having undergone a design upgrade that incorporates new components"? That is, firmware image compatibility checking is performed whenever a system upgrade of hardware is performed. *Kathail* teaches at col. 25, lines 15-16 that a new set of drivers can be introduced for devices, and new drivers can be introduced later (col. 25, lines 20-21). However, there does not appear to be a suggestion that compatibility between firmware images (not firmware (driver) and device) occur "in response to" new hardware being added.

#### Claim 35

Can we discuss the feature of “in response to determining that said installed firmware does not have a firmware family control block that includes a firmware family code, firmware stepping level and compatibility table for said installed firmware, causing a flash utility to refuse to install said candidate firmware”? The cited art does not appear to support this feature of making installation of new firmware dependent upon the old firmware having a firmware family control block that specifically includes these three elements (firmware family code, stepping level and compatibility table). *Kathail* is cited at col. 24, lines 39-42 for this teaching. However, this passage only teaches that an error message should be sent if a compatible driver cannot be found for a specific device, and doesn't appear to suggest the claimed limitations.

#### Claim 53 (dependent on Claim 35)

Can we discuss the feature of “in response to determining that said candidate firmware is desired to replace said installed firmware that does not have said firmware family control block, issuing an override command from said flash utility to override said refuse to install command, wherein said candidate firmware flashes over said installed firmware despite said installed firmware lacking said firmware family control block”? That is, even if the flash utility has refused to install the new firmware, an override command can be issued forcing the flash utility to install the new firmware anyway.

*Kathail* is cited at col. 24, line 55 to col. 25, line 25 for teaching this feature. However, this passage appears to be related to matching drivers to devices as soon as the driver is accessible on either a hard drive or a boot ROM. I am unable to interpret this section as teaching that a flash utility is forced to install new firmware despite its initial refusal to do so (because the firmware didn't have a firmware family block that includes a firmware family code, firmware stepping level and compatibility table).